

Bulletin No. 4

**ADVISORY BULLETIN RE WORKMEN'S COMPENSATION
EXCLUSIONS IN HEALTH INSURANCE POLICIES AND
CONTRACTS**

April 3, 1970

It has come to the attention of this Department that because of the somewhat unique Workmen's Compensation Act in North Dakota, insurance companies and hospital and medical service plan corporations may not in all cases be administering policies or contracts containing Workmen's Compensation exclusions in a manner consistent with Section 65-05-15, the "Aggravation of Injury or Disease" provision of the Workmen's Compensation Act. This Section provides as follows:

"Section 65-05-15. Aggravation of Injury or Disease; Compensation and Benefits Not Paid for Pre-existing Condition. In cases of aggravation of an injury or disease existing prior to a compensable injury, compensation, medical, hospital or funeral expenses, or death benefits, shall be allowed by the bureau and paid from the fund only for such portion of the disability, death benefits, or expense arising from the aggravation of such prior disease or injury as reasonably may be attributable to such compensable injury. But any compensation paid on the basis of aggravation shall not be less than ten dollars per week unless the actual wages of claimant shall be less than ten dollars, in which event the actual wages shall be paid in compensation."

In administering claims particular care should be taken to see whether such claim involves an aggravation of a prior injury or disease within the context of Section 65-05-15. Under insurance policies and non-profit service corporation contracts delivered or issued for delivery in this state providing occupational coverage, a Workmen's Compensation exclusion, when Section 65-05-15 applies to the aggravation of a prior injury or disease, should not operate to exclude that portion of the charges for hospital and medical care and treatment attributable to such prior injury or disease. Nothing in this Bulletin is intended to otherwise extend liability beyond the terms of a policy or contract, constitute a bar or waiver of any lawful defense, nor abrogate any provisions of a policy or contract.

Please advise your claims departments of this Bulletin in order that

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claims involving Section 65-05-15 of the Workmen's Compensation Law can accordingly be properly administered.

J. O. WIGEN
Commissioner of Insurance